

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3

4 Gallagher-Kaiser Corporation,

5 Plaintiff

6 v.

7 Liberty Duct, LLC,

8 Defendant

9 And all related matters
10

2:14-cv-00869-JAD-NJK

**Order Granting Joint Stipulation to Stay
Case, Denying Pending Motions Without
Prejudice, and Setting Status Conference**

[ECF No. 46, 75, 78]

11 Plaintiff Gallagher-Kaiser Corporation, a mechanical subcontractor, sues materials
12 suppliers Liberty Duct, LLC and Bio Shield Tech, LLC under various legal theories regarding
13 issues that arose during the construction of the new air traffic control tower at the McCarran
14 International Airport in Las Vegas, Nevada.¹ Liberty filed a third-party complaint against Archer
15 Western Contractors, LLC, the general contractor for the project.² Archer Western has claims
16 pending before the Federal Aviation Administration's Office of Dispute Resolution for
17 Acquisition and contends therein that the FAA may be liable for some or all of the claims
18 asserted by Gallagher-Kaiser in this case (the ODRA proceeding).³

19 The parties now jointly seek to stay the entirety of this case pending resolution of the
20 ODRA proceeding.⁴ The Ninth Circuit instructs that "a trial court may, with propriety, find [that]
21 it is efficient for its own docket and the fairest course for the parties to enter a stay of action
22 before it, pending resolution of independent proceedings [that] bear upon the case."⁵ And "[t]his
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24 ¹ ECF No. 7.

25 ² ECF No. 35.

26 ³ See ECF No. 78 at 2:20–26.

27 ⁴ ECF No. 78.

28 ⁵ *Leyva v. Certified Grocers of California, Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979).

1 rule applies whether the separate proceedings are judicial, administrative, or arbitral in character,
2 and does not require that the issues in [the] proceedings are necessarily controlling of the action
3 before the court.”⁶ Under these circumstances, I find that the interest of the parties and judicial
4 resources will be best served by staying this case and denying the motions pending before me
5 without prejudice to them being re-urged upon resolution of the ODRA proceeding.

6 Accordingly, with good cause appearing, IT IS HEREBY ORDERED the **parties’ joint**
7 **motion to stay this case pending resolution of the ODRA proceeding [ECF No. 78]** is
8 GRANTED.

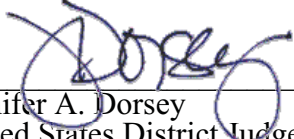
9 IT IS FURTHER ORDERED that, within **30 days** of the resolution of the ODRA
10 proceeding, the parties must move to lift the stay of this case or take other appropriate action.

11 IT IS FURTHER ORDERED that a status conference will be held on **Monday,**
12 **December 19, 2016, at 9:00 a.m.** regarding the status of the ODRA proceedings.

13 IT IS FURTHER ORDERED that **Archer Western’s motion to dismiss the third-party**
14 **complaint [ECF No. 46] is DENIED** without prejudice.

15 IT IS FURTHER ORDERED that **Liberty Duct’s cross-motions to amend the third-**
16 **party complaint or add Archer Western by permissive joinder under FRCP 20 [ECF No.**
17 **75] is DENIED** without prejudice.

18 DATED: June 17, 2016

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20 Jennifer A. Dorsey
21 United States District Judge
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28 ⁶ *Id.* at 863–64 (collecting cases).